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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act of Washington by:

Private Lender Funding, Inc.; The Moyer Company;
and Timothy Moyer

S-02-272-03-CO03

SUMMARY ORDER TO CEASE AND DESIST
Case No.02-04-173
S-02-272

THE STATE OF WASHINGTON TO: Timothy Moyer
Private Lender Funding, Inc.
The Moyer Company

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Private Lender Funding, Inc; The Moyer Company; and Timothy P. Moyer; have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to the investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I.

Private Lender Funding, Inc. is a Washington corporation with its principal place of business at 104 S Freya Ste 211A, Green Flag Building, Spokane, WA 99202.

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II.

Timothy P. Moyer is president of Private Lender Funding, Inc. He is also the owner of The Moyer Company, a Washington sole proprietorship in the commercial real estate brokerage business.

III.

Offering of investments

Since 1996, Moyer, The Moyer Company, and Private Lender Funding, Inc. have been in the business of arranging commercial loans. This financing came primarily from individual lenders. Moyer became acquainted with most of these individuals through referrals. Private Lender Financing, Inc. also maintained a website which advertised for both lenders and borrowers. From 1996 to the present, Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged for funding of more than \$4.5 million in loans from 24 or more investors. Most of the loans made were to be repaid in less than a year. All of the loans bore high interest rates, from 15% to 17%. The Moyer Company and Private Lender Funding, Inc. received fees from 3%-8% for brokering the loans. These fees also applied when the loans were renewed. The brokerage fees on loan extensions were somewhat lower. The lenders received loan fees ranging from 3% to 10%. The loans were made to high-risk borrowers who had been unable to obtain bank or other conventional financing. Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged for loans of various types for borrowers. The types of loans they arranged included purchase money loans secured by first liens on real property, improvements loans secured by second or subsequent liens on real property, factoring loans secured by accounts receivable, and unsecured payroll loans. Because the terms of the loans were short, and because the borrowers had few other refinancing options, the loans arranged by Moyer, The Moyer Company, and Private Lender Funding, Inc. were often renewed one or more times. Some of the borrowers had multiple loans of multiple types with various lenders, all of those loans having been arranged by Moyer, The Moyer Company, and Private Lender Funding, Inc. Some of the loans were for the development of real estate. In those cases, a number of investors each received first liens on different parcels of undeveloped land, which were to be part of

1 a planned development. The potential value of the parcels could be realized only to the extent that
2 infrastructure improvements were added to the development as a whole.

3 Most of the lenders were not in the business of commercial lending. One lender suffers from Alzheimer's
4 disease and is in a nursing home. Others were children or siblings of other lenders, but had no experience of
5 their own in the commercial loan business. The lenders relied on the services of Moyer, The Moyer Company,
6 and Private Lender Funding, Inc. in connection with their loans.

7 In some cases, Moyer, The Moyer Company, or Private Lender Funding, Inc. formally guaranteed
8 payment to a lender. In all cases, Moyer, The Moyer Company, or Private Lender Funding, Inc. undertook to
9 arrange refinancing or make other efforts to ensure that lenders were paid. Moyer, The Moyer Company, or
10 Private Lender Funding, Inc. acted as exclusive collection agent for the lender in some cases. Moyer, The
11 Moyer Company, and Private Lender Funding, Inc. also performed other services for lenders: screened
12 borrowers, prepared paperwork, obtained borrower signatures on documents, arranged for payment of prepaid
13 interest through escrow companies, and made collection efforts. In some cases Moyer, The Moyer Company,
14 and Private Lender Funding, Inc. arranged for one lender to lend money to another so that the money could be
15 lent to a borrower. In other cases, Moyer, The Moyer Company, and Private Lender Funding, Inc. lent money
16 directly to borrowers who had already borrowed from other lenders. Moyer, The Moyer Company, and Private
17 Lender Funding, Inc. also facilitated arrangements in which investors swapped or otherwise modified their
18 security interest in properties for mutual benefit. Moyer formed at least four companies for the purpose of
19 developing or using assets acquired when borrowers defaulted. Some of those companies have borrowed from
20 lenders in order to finance their development activities.

21 IV.

22 **Misrepresentations and omissions in the sale of investments**

23 Most lenders received written loan proposals from Moyer, The Moyer Company, or Private Lender Funding,
24 Inc. when making their initial investments. Some received credit reports. Some received title insurance reports.

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1 However, some lenders received were not informed of all the lenders who had outstanding loans to their borrower.
2 Many were not informed that Moyer, The Moyer Company, and Private Lender Funding, Inc. would continue to
3 arrange additional loans for the borrower for the same business or project, thereby reducing the borrower's ability to
4 pay the earlier lenders. Lenders on loans secured by real estate or other collateral were led by Moyer, acting on behalf
5 of The Moyer Company and Private Lender Funding, Inc., to believe that the value of the collateral was adequate to
6 secure their loans. In fact, the value of the collateral was inadequate to protect the lender on many of the loans.
7 Lenders on development loans were not advised of all the risks associated with development loans, including the fact
8 that the collateral for development loans was not sufficiently valuable, in its current unimproved state, to adequately
9 secure the loans. Lenders were not advised of the financial condition of The Moyer Company or Private Lender
10 Funding, Inc. and the limitations on its ability to fulfill its guarantees or obligations to investors. Lenders were not
11 advised The Moyer Company or Private Lender Funding, Inc. had a conflict of interest between the companies'
12 interest in maximizing revenue from brokerage fees and minimizing its risks as a lender on its own behalf and its
13 obligation to act for the benefit of investors to find loans where the risks did outweigh the potential rewards. Where
14 borrowers were unable to pay loans to lenders, Moyer, The Moyer Company, Private Lender Funding, Inc. sometimes
15 acquired collateral at bargain prices and then created new business entities to hold and use those assets. Among those
16 assets were a tile machine and a door and window installation company. Moyer and The Moyer Company have
17 created at least two corporations to build houses on land that was foreclosed when the lender was unable to pay loans
18 Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged.

19 Lenders relied on Moyer, The Moyer Company, and Private Lender Funding, Inc. to protect the lenders' interest.
20 In fact, Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged loans on behalf of borrowers with
21 reckless disregard to the borrowers' ability to pay. A child care operation, for which Moyer, The Moyer Company,
22 and Private Lender Funding, Inc. arranged loans, failed with more than \$600,000 worth of loans outstanding. The
23 loans Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged for the child care business started with

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1 a loan to purchase a building with an antique business, which was followed by loans to convert the building to a child
2 care facility, and then by loans to allow the business to make its payroll on time. At least fourteen lenders had loaned
3 money to the company through Moyer, The Moyer Company, and Private Lender Funding, Inc. When the business
4 failed, only three lenders were paid, as the collateral for the loans to the other lenders was inadequate. The loan for
5 one of those investors had been guaranteed by Moyer, The Moyer Company, and Private Lender Funding, Inc.
6 Moyer, The Moyer Company, and Private Lender Funding, Inc. also arranged a series of loans to a single developer
7 on several projects where the success of most of those projects depended on the successful completion of each of
8 multiple phases in order to fund the completion of the project. Lenders were told that the developer had an excellent
9 track record of payment on an earlier development. This statement was misleading because the lenders were not told
10 that the payments were made from holdbacks of the lenders' money rather than from the profits of the developer or
11 that the developer was still only in the early phases of that planned development. The developer failed, leaving
12 multiple unfinished developments and many lenders who were left with interests in property that was of little value
13 without a large infusion of capital to complete the necessary infrastructure. Lenders were not told that, although the
14 collateral they received could only be effectively developed with the cooperation of the other lenders, there was no
15 participation agreement between the lenders.

16
17 V.

18 Neither The Moyer Company nor Private Lender Funding, Inc. is currently registered to sell its securities
19 in the state of Washington and neither has previously been so registered.

20 VI.

21 Timothy P. Moyer is not currently registered as a securities salesperson or broker-dealer in the state of
22 Washington and has not previously been so registered.

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VII.

The Securities Administrator finds that the continued offering of investments in commercial loans in the manner described in Tentative Finding of Fact III and IV, presents a threat to the investing public.

Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

CONCLUSIONS OF LAW

I.

The offer and/or sale of investments in commercial loans described above constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: note, investment contract, and investment in the risk capital of a business.

II.

The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration or notification of claim of exemption for such offer and/or sale is on file with the Administrator of Securities, state of Washington.

III.

Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc. have each violated RCW 21.20.040 by offering and/or selling said securities while not registered as a securities salesperson or broker-dealer in the state of Washington.

IV.

The offer and/or sale of said securities was made in violation of RCW 21.20.010 because statements made to investors as described in Tentative Finding of Fact IV included misrepresentations of material fact or were misleading because they omitted facts that were necessary to make the statements made not misleading.

V.

The Securities Administrator finds that an emergency exists, that the continued violations of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140 constitute a threat to the investing public, and that summary

orders to cease and desist from those violations are in the public interest and necessary for the protection of the investing public.

SUMMARY ORDER

Based on the foregoing, NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED That respondents Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc., their agents and employees each cease and desist from offering and/or selling securities in any manner in violation of RCW 21.20.140, the section of the Securities Act of Washington requiring registration.

It is further SUMMARILY ORDERED that respondents, Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc., their agents, and employees each cease and desist from violation of RCW 21.20.010, the anti-fraud section of the Securities Act.

It is further SUMMARILY ORDERED that respondent Timothy Moyer cease and desist from acting as a securities salesperson or broker-dealer in violation of RCW 21.20.040, the section of the Securities Act requiring registration of securities salespersons and broker-dealers.

NOTICE OF INTENT TO IMPOSE A FINE

As described in the foregoing Tentative Findings of Fact and Conclusions of Law, based upon the scope of Timothy Moyer's activities as an unregistered broker-dealer or securities salesperson, based upon Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc.'s repeated offers and sales of unregistered securities and based upon his material misrepresentations and omissions in connection with the offers and sales of those securities, the Securities Administrator finds that there have been knowing or reckless violations of the Securities Act that justify the imposition of a fine pursuant to RCW 21.20.395. Therefore, the Securities Administrator intends to order that Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc. to pay, jointly and severally, a fine of \$20,000.

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AUTHORITY AND PROCEDURE

This Order is entered pursuant to the provisions of RCW 21.20.390 and RCW 21.20.395 and is subject to the provisions of Chapter 34.05 RCW. The respondents, Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc., may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

If a respondent does not request a hearing, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and make the summary order to cease and desist permanent as to that respondent.

WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

DATED this _____ day of July, 2003.

DEBORAH R. BORTNER
Securities Administrator

Approved By:

Presented by:

Michael E. Stevenson
Chief of Compliance

Suzanne E. Sarason
Financial Legal Examiner